IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 919 of 2005

Between:

D. Audilakshmi W/o China Kondaiah
R/o Ananthavaram, Dagadarthi Mandal, Nellore District

..... PETITIONER

AND

1 Joint Collector, Nellore District, Nellore
2 Revenue Divisional Officer, Kavali, Nellore District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly in the nature of Writ of Mandamus declaring the action of the 1st respondent in not entertaining the appeal preferred by the petitioner against the proceedings of the 2nd respondent dt 12-12-2004 in Rc. J. 4351/04 received on 29-12-2004 and disposing of the stay petition filed along with the said appeal as arbitrary, unjust and capricious and violative of Articles 14, 19 (1) (g) and 21 of the constitution of India and the provisions of the A.P. Public Distribution system (Control) order 2001 and principles of Natural Justice and consequently direct the 1st respondent to entertain the appeal and dispose of the stay petition and pass such other order or orders

Counsel for the Petitioner :MR. M.VENKATA NARAYANA

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

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ORAL ORDER:

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The petitioner is functioning as a dealer of a Fair Price Shop of Ananthavaram village, Dagadarthi Mandal, Nellore District. The 2nd respondent suspended her authorization through proceedings dated 12.12.2004. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent along with an application for stay on 5.1.2005.

The grievance of the petitioner is that the 1st respondent has not passed any order in the application for stay so far, and mean while, steps are being taken to entrust the distribution of essential commodities to third parties.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The 2nd respondent suspended the authorization of the petitioner on the basis of a report dated 13.9.2004 submitted by the Deputy Tahsildar, Civil Supplies, Butchireddypalem. The allegation against the petitioner is that she released the rice earmarked for SGRY scheme without ensuring production of respective coupons. Though the 2nd respondent passed orders of suspension three months after receiving the report of the Dy. Tahsildar, he did not choose to issue any show cause

notice to the petitioner requiring her explanation. Further, he suspended the authorization of the petitioner as a measure of penalty and not as a step pending enquiry. Moreover, the release of rice in question was done in the month of October, 2003. If what is alleged against the petitioner is true, the officers, ranging from Revenue Divisional Officer to the Dy. Tahsildar, who are under obligation to ensure proper distribution of the rice under SGRY scheme, as well as the engineering staff, are liable to be proceeded against.

Once the petitioner had availed the remedy of appeal provided under the A.P. State Public Distribution System Control Order, 2001, the 1st respondent is under obligation to dispose of the application for stay without any further delay. Non-disposal of the same tends to defeat the very purpose of preferring the appeal. For the foregoing reasons, the order dated 12.12.2004 passed by the 2nd respondent shall remain stayed pending disposal of the appeal by the 1st respondent and that the petitioner shall be entitled to function as Fair Price Shop Dealer.

The writ petition is accordingly disposed of. No costs.

1.2.2005

Note: CC in three days.

CVM

To,

1 Joint Collector, Nellore District, Nellore
2 Revenue Divisional Officer, Kavali, Nellore District

3 2 CCs to G.P. for Civil Supplies, High Court buildings, Hyderabad (OUT).

4 2 CD copies.